

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

LARRY MITCHELL,

Petitioner,

v.

UNITED STATES,

Respondent.

4:13-CR-20468-TGB-MJH-1

HON. TERRENCE G. BERG

**ORDER DENYING
CERTIFICATE OF
APPEALABILITY**

The Court denied Larry Mitchell's petition for writ of habeas corpus on July 14, 2020 (ECF No. 74). Petitioner has filed a notice of appeal. Before an appeal under 28 U.S.C. § 2255 may proceed, the district court must first determine whether to certify any issues for appeal.

A certificate of appealability may issue only if a petitioner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). *Slack v. McDaniel*, 529 U.S. 473, 484-85 (2000). "A petitioner satisfies this standard by demonstrating that jurists of reason could disagree with the district court's resolution of his constitutional claims or that jurists could conclude the issues presented are adequate to deserve encouragement to proceed further." *Miller-El v. Cockrell*, 537 U.S. 322, 327 (2003).

Petitioner sought habeas relief under a variety of grounds including ineffective assistance of counsel, his designation as a career offender, and claims that the government improperly withheld evidence at trial. The Court concluded that Petitioner's challenges were procedurally barred by the waiver in his plea agreement and, even if it had not been waived, his additional claims lacked substantive merit. The Court finds that reasonable jurists could not debate that Petitioner's motion is procedurally barred. Therefore, the Court will deny a certificate of appealability.

Accordingly, the Court **DENIES** a certificate of appealability.

IT IS SO ORDERED.

Dated: January 15, 2021

s/Terrence G. Berg
TERRENCE G. BERG
UNITED STATES DISTRICT JUDGE